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DALE F. REGELMAN QUARLES & BRADY, LLP ONE SOUTH CHURCH AVENUE, STE. 1700 TUCSON, AZ 85701-1621			EXAMINER PRAKASAM, RAMYA G	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ARTHUR J. COLVIG, BRIAN G. GOODMAN,
RONALD F. HILL, JR., and TIMOTHY K. PIERCE

Appeal 2009-003604
Application 10/674,298
Technology Center 3600

Before JENNIFER D. BAHR, MICHAEL W. O'NEILL, and
FRED A. SILVERBERG, *Administrative Patent Judges*.

O'NEILL, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Arthur J. Colvig et al. (Appellants) seek our review under 35 U.S.C. § 134 of the final rejection of claims 1-36. Specifically, Appellants seek review of the Examiner's decision to reject claims 1, 3, 4, 6, 8, 9, 11, 13, 15, 16, 18, 20, 21, 23, 25, 27, 28, 30, 32, 33, and 35 as unpatentable under 35 U.S.C. § 103(a) over Plutt (US 6,591,164 B1, issued Jul. 8, 2003) in view of Dimitri (US Pat. Publ. 2002/0062167, publ. May 23, 2002); claims 2, 5, 7, 10, 12, 14, 17, 19, 22, 24, 26, 29, 31, 34, and 36 under 35 U.S.C. § 103(a) over Plutt in view of Dimitri and further in view of Grobler (US 6,799,084 B2, issued Sep. 28, 2004). We have jurisdiction under 35 U.S.C. § 6(b). We REVERSE.

The Invention

The claimed invention is to a process to provide redundant accessor availability in an information storage and retrieval system. Spec. 1:5-6.

Claim 1, reproduced below, is illustrative of the subject matter on appeal.

1. A method to provide selectable redundant accessor availability in a data storage and retrieval system, comprising the steps of:

providing a data storage and retrieval system comprising one or more data storage devices and an accessor, wherein said accessor comprises a lifting servo section and a first gripper and a second gripper disposed on said lifting servo section;

operating said first gripper;

requesting use of said second gripper;

determining if use of said second gripper is authorized;

if use of said second gripper is authorized, operating said second gripper.

DISCUSSION

The Examiner states that Plutt, at column 4, lines 9-14, satisfies the claimed step of requesting use of the second gripper, while within the same column at lines 40-45, Plutt satisfies the claimed step of determining if use of the second gripper is authorized. The Examiner states that Plutt, at column 4, lines 40-67, satisfies the claimed step of requesting use of the second processor, while in the same column, narrowed to lines 40-45, Plutt satisfies the claimed step of determining if use of the second processor is authorized. *See* Ans. 3-6, 8, 9. The Examiner utilizes Dimitri to teach use of an accessor with a lifting servo section and grippers on the lifting servo section for the purpose of moving the gripper vertically. Ans. 12. The Examiner determines

[i]t would have been obvious to a person of ordinary skill in the art at the time of applicant's [sic. applicants'] invention to modify Plutt by utilizing an accessor with a lifting servo section [as taught by Dimitri], such that the grippers are on the lifting servo section for the purpose of moving the gripper vertically to access the cartridges.

Id.

While the Examiner's rejection explains how the combined teachings of Plutt and Dimitri provide structure to satisfy the structural components listed in the claims, the rejection fails to explain how the combination of these components would render obvious the process steps as called for in the claims. In particular, the rejection fails, for example, to sufficiently explain how the disclosure of parking the spare robot at a predetermined location (*see* Plutt, col. 4, ll. 40-45) satisfies the claimed process step of determining if use of the second gripper or accessor is authorized as called for in the

claims. While the Examiner may be correct that Plutt's disclosure that "the use of the second gripper is determined based on necessity" means that the use of the second gripper is authorized (*see* Ans. 14), this is not sufficient to satisfy the claimed step of "determining if use of said second gripper is authorized."

CONCLUSION

In view of the foregoing, as contended by Appellants, the Examiner improperly rejected the claims.

DECISION

The Examiner's decision to reject the claims is reversed.

REVERSED

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